

1921.

Department of L.R.

OFFICE Board of Rail

STATION Habers

No. 1191

Dated 26.8.21.

Date

When sent

Given for copying

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Examined

Signed

Given for despatch

Despatched *22/9*

Indexed

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Pages in the file

(SUBJECT.)

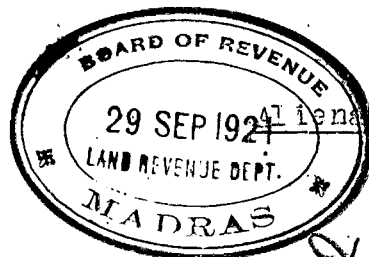
R 12. Kodallu
C 3598

Office of the Board of Revenue,
(Land Revenue)
M a d r a s, 19th September 1921.

L.T.Harris Esquire, C.S.I., I.C.S., Commissioner of Land Revenue.

Re. Subramaniam
Read petition from Pius B.Saldanha, son of the late ^{Mr. Lawrence} Mr. Lawrence
J.Saldanha, residing near Light House Hill, Mangalore Town, dated
12th September 1921.

Board's Endorsement thereon No.C.3466.



Alienation - Land (South Kanara) Mangalore taluk - Attavar
village - Mangalore Ladies' Club - Tenancy-at-will -
right of way - objection petition.

R e t u r n s d.

2. The petition should bear a court fee label to the value
of one rupee and the Vakalatnamah, two rupees.

3. The petition should be represented within one month
from the date of this order.

Amargunem
For Secretary. *29/9*

To the petitioner through the Vakil, A.C.Gonsalves Esq., High Court
M.P. Vakil, Mangalore.

on petition tends being important
8-10-21

2

Appellants

VAKALAT.

In the Court of the Honourable members of the
Board of Revenue, Land Revenue.

SUIT PETITION No. 192

Between

Gius B. Saldanha

Plaintiff
Petitioner

AND

The Secretary Ladies Club Mangalore

Defendant
Respondent

I, P. B. Saldanha son of the late Mr
Lawrence J. Saldanha residing near Light house
hill Mangalore Town,

do hereby appoint and retain Mr A. C. Goncalves B.A.B.S.

Vakil Mangalore to appear for me in the

Suit and to conduct and prosecute (or defend) the same
petition proceedings that may be taken in respect of any application
of any decree or order passed therein I also empower
Vakil to appear in all miscellaneous proceedings in the above
matter till all decrees or orders are fully satisfied or adjusted
to obtain the return of documents and draw any moneys that might
be due to me in the said suit or matter.

In witness whereof I have hereunto set my hand this day

1921

Accepted

Date 12.9.1921.

+ B. Saldanha

A. C. Goncalves

Vakil for Appr.

The address of service
of the said Vakil is

Signed before me by the executant this 12th day
of September 1921

A. C. Goncalves B.A.; M.A.

Stick out Vakil,
Mangalore.

W. Amin
M.A.

R74
Mangalore

3

~~153267~~

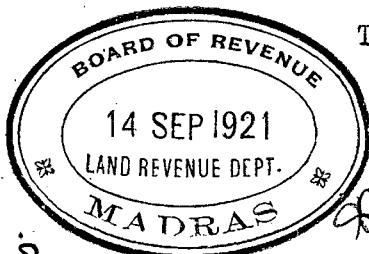
MANGALORE,

12th Sept. 1921.

This may be transferred
to C Section.

C 3466

To



The Hon'ble the Members of the

Board of Revenue, Land Revenue,

Madras.

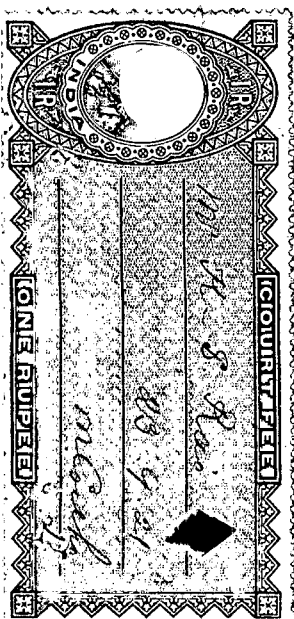
Pius B. Saldanha, son of the late

Mr. Lawrence J. Saldanha, residing near (Appellant.

Light House Hill, Mangalore Town. (

and

The Secretary, Ladies Club, Mangalore. .. Respondent.



p7c-6

Being highly aggrieved by the order of the District Collector of South Kanara declining to reserve the mamool path of way of the Appellant 10 feet in

p6c-6

breadth marked "A" in the accompanying plan through plot S. No. 25 of Mangalore Town, the appellant above-named begs to prefer this appeal to this Hon'ble Board, on the following among other grounds:-

B P. 727 M. (K)
-1921

p6 cf

1. The order of the District Collector leasing on quit rent plot S. No. 25 to the Respondent, without reserving through its middle the said mamool way of the appellant "A" is against Law, the darkhast rules equity and justice.

2. The District Collector has lost sight of the fact that the appellant owns houses E. G. H. and I in plot S. No. 26, which plot adjoins plot S. No. 25 on the northern side and that his predecessors-in-title and their tenants in plot S. No. 26 have been using the said mamool path way "A" 10 feet in breadth to go and return from the public road marked 20 in the

p6 cf

- 2 -

plan from time immemorial and that, as they had been using the said pathway peaceably, openly as of right and as an easement, without interruption for more than 60 years, the rights of Government, if any, to the said pathway, are barred by limitation, and the District Collector or the Government, could not have leased the said plot on quit rent to the respondent without reserving therein the said mamool right of way of the appellant.

3. The District Collector has failed to give notice to the appellant or to any one on his behalf when he inspected the locality in connection with the petition of the Respondent. As the Appellant is an adjoining wargadar, the District Collector was according to Board's Standing Orders as also according to law, bound to give notice to the appellant to urge his objections, if any, and the District Collector's report to Government for the lease on quit rent of S. No. 25 and on which the order of the Government is based, is one-sided and not entitled to any weight as it was prepared behind the back of the appellant who could not show to the Collector the traces of the said pathway.

4. The District Collector has erred in saying that he does not find that the Petitioner has ever used any right of way through plot S. No. 25 or that he could do so. The District Collector has over-looked the fact that the pathway claimed by him is not cart-track road but a path used only by men and cattle, and that the appellant would have shown it to the Collector, if he was given any opportunity for doing so.

- 3 -

4(a)

5. The appellant begs to submit that on coming to know of the inspection of the District Collector to lease out the said plot S. No. 25 to the Respondent, when the District Collector was informed of the existence of the aforesaid mamool right of way and the hardships caused to the appellant, the District Collector was on his personal inspection held on 9th August 1921 convinced of his hardships and had even requested the respondent to reserve the said right of way at "B" through plot S. No. 25, which fact establishes beyond doubt the just nature of the claim of the appellant. The District Collector has erred in ignoring the frivolous and selfish objections of the Respondent and in not reserving the said mamool path way to the Appellant.

6. The District Collector has failed to consider that there is absolutely no other right of way to the house E of the appellant in S. No. 26 and that the said path way is of absolute necessity to him.

7. The District Collector has overlooked the fact that the Respondent is intending to construct a parapet wall on all sides of S. No. 25, when it will be impossible for the appellant and his people living in houses in S. No. 26 to have free ingress and egress to the public road 20. The District Collector has also lost sight of the fact that the appellant has already collected materials for the construction of a decent building in plot S. No. 26 at F., just to the south of S. No. 25 for his residential purposes, as the house H in which he is now temporarily residing, is an old one and is unhealthy

~~5.~~

owing to dampness and is also subjected to every possible nuisance from the Common-Wealth Mechanical Works which is in plot S. No. 24.

~~8.~~ The District Collector has failed to consider that as length of the plot S. No. 25 is more than 50 yards, the Respondent to whom it has now been graciously granted on quit rent can, without the least inconvenience, reserve the said right of pathway of the appellant,

~~9.~~ The appellant begs to submit that the plot S.No. 26 which is shown to belong to his deceased father Mr. L. J. Saldanha has fallen to his share in the family partition deed of August 1921 and it is he only that is entitled to file this appeal.

10. The appellant therefore prays that this Hon'ble Board may, on a kind consideration of the above facts, be pleased in modification of the order of the District Collector, to reserve the said mamool pathway "A" through plot S. No. 25 for which act of kindness he shall ever remain grateful. The appellant begs to submit that this Hon'ble Board may also be pleased to order the Respondent not to erect any building or parapet wall on the said pathway for atleast six months from this date as the appellant intends to file a civil suit after giving due notice to the Collector, if this appeal is not allowed.

M B Saldanha

Enclosures 5.

10
DRAFT FOR APPROVAL.

C.F. 20-4-2-14.

Office.

Enclosures.

Despatch No.

When given to fair-copying *no*

Fair copied by *MD*

Fair copy compared by *4/10*

When despatched *SV*

4/10/21

Register No.

C 3466, dated *9*
h 3-48 - 9

From

Subject.

Alienation. - Land (S. Kanam
Nangalor Th - *h* - *198* -
Nangalor Ladies' Club - Tenancy
at will - right of way -
To objection.

THE

Collector of S. Kanam.
with petition & encs. to
be returned.

Refce *C 3598-21-1*
3-5-21

Referred to the Collector for remarks

2 As the Ladies' Club are given only
a tenancy - at - will and as the land has
not yet been given over to them, there
is still an opportunity of reserving some
land for a path to S. No. 26. The Collector
is requested to state whether in his
opinion such reservation is necessary &
what his opinion is regarding the claim
to a right of way across S. No. 25.

Loghe Callr
of S. Kanam

Ends:

pp 3-9cc

SV
30/9/21
30/9/21
4-10-21

2-10-21
30/9/21

11
Ref. P. R. No. 2051/Rev/20.

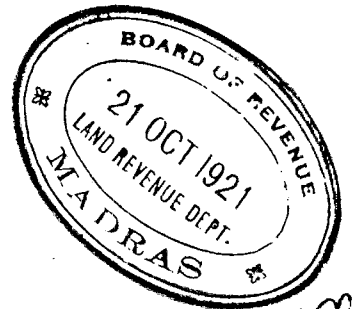
C 3863
S. Kanara Collector's Office,
Camp Hosdrug, 15th October 21.

From

R. H. Ellis, Esquire, I.C.S.,
Collector of South Kanara.

To

The Secretary to Board,
Land Revenue, M a d r a s.



pbce Reference No. 3598/21-1. dated 3rd October 1921.

Alienation - Land (South Kanara) - Mangalore Taluk -
Attavar village - Mangalore Ladies club - Tenancy at will -
Right of way-objection.

pbce-5
I have inspected the land in question several times -
once in the presence of petitioner. Petitioner's claim to
a right of way at the place marked A. in ^X this sketch is in --
my opinion quite preposterous. Petitioner's land along this
side has been dug out to a depth of 10 or 12 feet below --
~~below~~ the level of the land granted to the Ladies' club and
it is physically impossible for any one to go up or down. I
did not find any traces of the vacant land having been used --
as a path way to petitioner's ~~land~~ at this point. Mr.
L. J. Saldanha a brother of petitioner's ^{the} and then owner made
an objection to me in this matter so long ago as 11-3-20. --
(2) In that petition also I find no claim whatever advanced to a
right of way. Enquiries then made by the Revenue Inspector
showed that there was no right of way.

pbce-6
As regards the reservation of a path, petitioner's --
mother was so very importunate that I tried to see whether --
the Ladies' club would agree to the construction, as a matter
of amicable settlement, of a ^{light} right of steps 10 feet wide at --
the point marked B in petitioner's sketch. (The construction
of any road is out of the question owing to the sheer drop-
into petitioner's compound). But I found the Ladies' club, -
who know petitioner's mother too well, so firmly opposed to
the grant of any concession to her that I wrote and told her

Hammond
1960
For Collector.

19 OCT. 1921

$\frac{KQ}{9 \cdot 10^{-24}}$ $\frac{9M^4}{19 \cdot 10^{-20}}$

Handwritten: *Handwritten*

b1 e-6

C359812i - 9

h10 c6

Ref: 21 3 $\frac{16}{21}$ - 9 ✓

1011C-6

C 386.3/21 - 9

Resⁿ. (^{This}~~Part~~)

1191
—
96. x. 24

The Board declines

ک. ایف. ایف.

25. x 21.

2-26-22

70

Clo to varied
 The petition ^{tr}
 also: ^{re} ^{re}
 thro the leader

The effects of stress

✓ CIP
✓ 12-1

[Signature]

29-9-21

S.
A.S.

Punch Stamp

1728 AC
29-6-21.

Refce 3367-21-1 (V)
16-9-21.

Alteration - Land (S; Nangra). - Nangra
Tk - Mwanar Vgr - Nangalok, Ladies' cl
Tenancy at will - Right of way -
objection - 29-9-21

C 3466 d. 2 1000 (B.P. 3 k 50)

—

Svt: Sanctioned the grant of
a tenancy - at - will in ^{respect} of it
Site in 2 See B.P. at (H).

2. The Club does not appear
to have been put in possession of
land as the draft lease deed
has just gone up to Svt.

For order.

29/9/21 82 29-9-21 may be ^{referred} to Com for remark
29/9/21 82 29-9-21

If the copy of the Com: letter 29.8.21. is a true
copy, it appears that the Com: is thinking
of reconsidering his decision of 22-9-21.
The Com: that as the lease deed are given
of a tenancy - at - will and as the land
has not yet been given over to them, there
is still an opportunity of securing some
land for a path to S No. 26. Ask him
whether in his opinion ^{such} reservation
is necessary or advisable - also, that his
opinion is regarding the claim to a
right of way across S No 25. As

309

Draft Submit?

29/9/21 82 29-9-21

See Bds ref^x ce 27 3-x-21 + in x p 10 cf.

Cur's reply ~~at 11-12, cf~~

11-12, cf

~~7~~
~~8~~
~~A-5~~

will B² interfere? : interference, not necess.

24021 V.O.S. Sketch. Shows no pathway before. h.b.c.f.

land across 2.1095

24021

In view of the P.O. etc.
sept. for 11 c.f. the Board may
decide to make fee

17

fee

25 x 2

25.10.4

11

supl. Subm² p 12 c 6

25.10.21

26/10/21

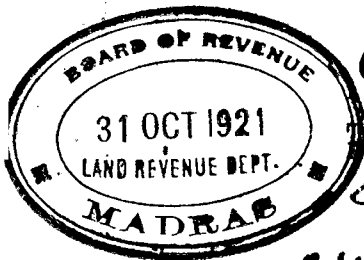
18

For ¹⁰⁰ ~~100~~ ¹⁰⁰ ~~100~~

R. B. Magal

Mangalore,

28th October 1921.



The Hon'ble the members of the
Board of Revenue, Land Revenue,

M a d r a s .

Pius B. Saldanha son of the late Mr. L. J. Saldanha
residing near Light House Hill,

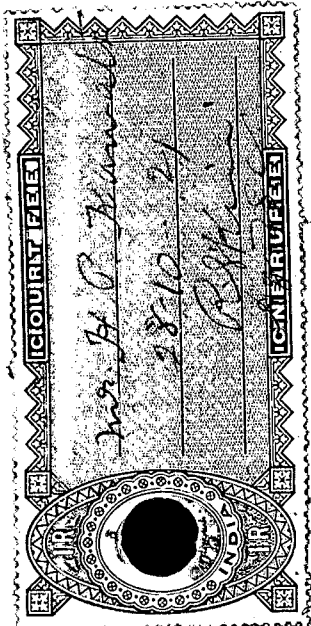
Mangalore Town.....Appellant

and

The Secretary, Ladies Club, Mangalore...Respondent

The Appellant begs to state as follows:-

1. That he had filed an appeal before this Hon'ble Board against the order of the District Collector declining to reserve a mamool pathway 10 ft. in breadth through plot S. No. 25 of Mangalore Town for free ingress and egress to his compound S. No. 26 which is about 2 acres 70 Cents in extent.
2. That he further begs to bring to the kind notice of this Hon'ble Board, that the Light house road to which he claims the mamool right of way lies at a distance of only about 20 ft. from his said compound S. No. 26 so that he and his predecessors in title and their tenants could not but use a pathway through plot S. No. 25, which was up to this time Government wasteland, to go to the said Light house road which forms an important road in the town.
3. That he humbly begs ^{to submit} that the present District Collector has been in this District only for the last about 2½ years and has no personal knowledge of the said right of way. The District Collector ought to have taken the statements of the adjoining owners of compounds who are also respectable persons, when they would have convinced him of



119125
25876

17.9.21

the existence of the said pathway. The District Collector's report without the statements of Mahazardars is therefore erroneous and onesided.

4. That the District Collector has failed to consider that there are several other compounds in a line with that of the Appellant and situated at the same distance as that of the Appellant from the said Light house road and that every one of the said compounds has a right of way through Government land to the said public road which fact cannot be disputed by any one and there is no reason whatsoever as to why the Appellant only should not have a similar right of way.

5. That the District Collector's biased order is most probably due to the fact that the Appellant's compound touches the road on its Southern side. But the District Collector has failed to notice that the said Southern road called the Balmatta road could be used only by the occupants of two of his houses occupying the Southern half ~~hal~~ of his compound. The Northern half of his compound is on a very much higher level and the occupants of two of the houses existing therein for more than 60 years cannot use the said Balmatta road, but can use only the Light house road, so that a right of way through plot No.25 is one of absolute necessity to the Appellant.

6. That he begs to bring also to the notice of this Hon'ble Board that without the said pathway 10 feet in breadth through the said S. No.25 the Northern half of his compound will be rendered absolutely useless and unfit for enjoyment and occupation.

MBSaldanha

This seems to be a per. document.

2 8m 5-11 21. 2m 1 11 21

7. no fence in Flag N

I agree
[Signature]
9/22/11

$$\frac{119176}{26.7.21} \quad (2)$$